

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

ARTHUR JERRY SCOTT JR.,	:	Case No. 1:23-cv-102
	:	
Plaintiff,	:	
	:	
vs.	:	Judge Matthew W. McFarland
	:	Magistrate Judge Stephanie K. Bowman
ODRC OHIO DAPARTMENT	:	
CORRECTION, <i>et al.</i> ,	:	
	:	
Defendants.	:	

REPORT AND RECOMMENDATION

This civil rights action was instituted by state prisoner Arthur Jerry Scott Jr. in February 2023. On June 9, 2023, the Undersigned issued a Report and Recommendation screening the pro se Amended Complaint (Doc. 10) and concluding that it did not state a claim on which relief may be granted and recommending that it be dismissed. (Doc. 11). However, the Court gave Plaintiff Scott an additional thirty days to submit a Second Amended Complaint “naming appropriate defendants and providing sufficient information about his . . . failure to protect and equal protection claims.” (Doc. 11, PageID 67). The Clerk of Court sent Plaintiff a blank complaint form to assist him.

The Ohio Department of Rehabilitation and Correction’s website reflects that Plaintiff remains in custody in the same institution to which the Court’s previous orders and the complaint form were sent. *See* <https://appgateway.drc.ohio.gov/OffenderSearch/Search/Details/A774903> (accessed August 21, 2028). Mail to Plaintiff was not returned undelivered.

The Second Amended Complaint was due on July 10, 2023. To date, the Court has not received a Second Amended Complaint from Plaintiff or any request for an extension of time to

submit one. No objections to the Report and Recommendation were received either. The deadline to file these documents has now expired.

Therefore, the Undersigned again **RECOMMENDS** that the Court **DISMISS** this case in its entirety because the Amended Complaint fails to state a claim on which relief may be granted against either of the named Defendants. (*See* Doc. 11). 28 U.S.C. § 1915A(a); 28 U.S.C. § 1915(e)(2). The Undersigned further **RECOMMENDS** that the Court **CERTIFY** pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of any Order adopting this Report and Recommendation would not be taken in good faith, and therefore, deny Plaintiff leave to appeal *in forma pauperis*. *See McGore v. Wrigglesworth*, 114 F.3d 601 (6th Cir. 1997).

Notice Regarding Objections to this Report and Recommendation

If any party objects to this Report and Recommendation (“R&R”), the party may serve and file specific, written objections to it **within fourteen days** after being served with a copy thereof. Fed. R. Civ. P. 72(b). All objections shall specify the portion(s) of the R&R objected to and shall be accompanied by a memorandum of law in support of the objections. The Court may extend the fourteen-day objections period if a timely motion for an extension of time is filed.

A Judge of this Court will make a de novo determination of those portions of the R&R to which objection is made. Upon proper objection, a Judge of this Court may accept, reject, or modify, in whole or in part, the findings or recommendations made herein, may receive further evidence or may recommit this matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

The parties are specifically advised that failure to object to the R&R will result in a waiver of the right to have the District Judge review the R&R de novo, and will also operate as a

waiver of the right to appeal the decision of the District Court adopting the R&R. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

IT IS SO ORDERED.

September 5, 2023

s/Stephanie K. Bowman

STEPHANIE K. BOWMAN

UNITED STATES MAGISTRATE JUDGE